

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**

**JAN 14 2019**

Clerk, U.S. District Court  
District Of Montana  
Missoula

RANDY BRYANT WICK,

Plaintiff,

vs.

MISSOULA POLICE OFFICERS  
CAMPBELL, HOUPPERT and  
MARTINI,

Defendant.

CV 17-148-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation in this case on December 12, 2018, recommending that the Defendants' motion for summary judgment be granted and Wick's claims against them dismissed. (Doc. 32.) Wick failed to timely object to the Findings and Recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See Thomas v. Arn*, 474 U.S. 140, 149-53 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been made." *Wash. Mut., Inc. v. United States*, 856 F.3d 711, 721 (9th Cir. 2017) (citation omitted).

Having reviewed the Findings and Recommendation (Doc. 32), the Court finds no clear error in Judge Lynch's determination that the defendants, all of whom are law enforcement officers, are entitled to qualified immunity. As of January 24, 2015, the law would not have provided a reasonable officer with "fair notice" that Wick's constitutional rights would be violated when officers tasered Wick for the limited purpose of seizing Wick's knife and effectuating an otherwise valid arrest. *Kisela v. Hughes*, 138 S. Ct. 1148, 1152 (2018) (per curium).

IT IS ORDERED:


(1) Judge Lynch's Findings and Recommendation (Doc. 32) is ADOPTED;

(2) The Defendants' Motion for Summary Judgment (Doc. 28) is

GRANTED, and this matter is DISMISSED; and

(3) The Clerk of Court shall close this case and enter judgment in favor of the Defendants pursuant to Federal Rule of Civil Procedure 58.

DATED this 14<sup>th</sup> day of January, 2019.

  
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Dana L. Christensen, Chief Judge  
United States District Court